

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

JESUS E. GONZALEZ

Plaintiff,

V.

CHARTER COMMUNICATIONS, INC.
D/B/A SPECTRUM

Defendant.

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CIVIL ACTION NO. 5:21-CV-00033

NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF THE UNITED STATES DISTRICT COURT:

NOW COMES improperly named Defendant, CHARTER COMMUNICATIONS, INC. D/B/A SPECTRUM (hereinafter referred to as “Spectrum”), and files this Notice of Removal pursuant to 28 U.S.C. §1332(a) in this cause and in support thereof shows the Court as follows:

I. Procedural Background

1. On or about December 9, 2020, Plaintiff filed his Original Petition “Original Petition” styled Cause No. 2020CI23686; *Jesus E. Gonzalez v. Charter Communications, Inc. D/B/A Spectrum*; in the 131st Judicial District Court, Bexar County, Texas. Spectrum was served with citation on December 18, 2020 and filed its Original Answer on January 8, 2021.

Nature of Suit

2. This lawsuit involves an allegation of personal injury resulting in Plaintiff’s trip and fall in his backyard at his home located at 8214 Glen Boro in San Antonio, Texas. Plaintiff asserts negligence cause of action against Spectrum for faulty and/or negligently installed cable allegedly left exposed.

Basis for Removal

3. Removal is proper under 28 U.S.C. § 1332 because there is complete diversity of citizenship between the parties and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

a. The Amount in Controversy Exceeds \$75,000.

4. The amount in controversy in this action exceeds, exclusive of interest and costs, the sum of \$75,000. In Plaintiff's Original Petition, he claims that he suffered serious and permanent personal injuries including physical pain and mental anguish, physical pain and physical disfigurement, and reasonable and necessary medical expenses. Plaintiff's Original Petition further specifies that his claim against defendant Charter Communications, Inc. D/B/A Spectrum is for an amount over \$200,000 but not more than \$1,000,000.¹ Based on the damages claimed, the amount in controversy clearly exceeds the \$75,000 required for diversity jurisdiction pursuant to 28 U.S.C. § 1332.

b. Complete Diversity Exists Among the Parties

5. Plaintiff has plead that he is an individual who is domiciled in Bexar County, in the State of Texas, and was domiciled there at the time this action was commenced.² Plaintiff was at the time this action was commenced and is now a citizen of the State of Texas.

6. Charter Communications, Inc. D/B/A Spectrum, is a corporation incorporated under the laws of the State of Delaware, having its principal place of business now and at the time this action was commenced at 400 Atlantic Street, Stamford Connecticut, 06901. Defendant is now and was at the time this action was commenced a citizen of the State of Connecticut and/or

¹ See Plaintiff's Original Petition, pg. 3

² See *Id.*

Delaware and of no other state. Accordingly, complete diversity exists between Plaintiff and Defendant.

7. As noted in Defendant's Original Answer, which was filed in state court, Charter Communications, Inc. D/B/A Spectrum is not the proper defendant to this lawsuit. The proper corporate defendant that was responsible for operations, training, supervising, and matters related to the area of Bexar County, Texas at that time was SPECTRUM GULF COAST, LLC. SPECTRUM GULF COAST, LLC is now and was at the time this action was commenced a citizen of the States of Delaware, Missouri, Connecticut, and New York. SPECTRUM GULF COAST, LLC is not a citizen of the State of Texas and was not at the time this action was commenced, a citizen of the State of Texas. SPECTRUM GULF COAST, LLC is not a party to this action and has not been named, served, or joined in this action, and is not now making an appearance or waiving service of process as a Defendant. However, even if SPECTRUM GULF COAST, LLC is later named, served, and joined in this lawsuit, the Court will continue to have diversity jurisdiction over the parties.

The Removal is Procedurally Correct

8. Plaintiff's Original Petition and the citation in this action were served on Defendant on December 18, 2020. Defendant timely filed an Answer in State Court on January 8, 2021. Removal of this case is filed within thirty (30) days of the date that this Defendant was served and is timely and proper under 28 U.S.C. §1446(b).

9. Venue is proper in this district under 28 U.S.C. § 1441(a) because the state court where the suit has been pending is in this district.

10. Pursuant to 28 U.S.C. § 1446(a), copies of all pleadings, process, and orders served on and by Defendant in the state action, as well as other documents in the state court file, are attached to this Notice of Removal as **Exhibit “A”**.

11. Pursuant to 28 U.S.C. §1446(d), Defendant will promptly serve upon Plaintiff a true and correct copy of this Notice of Removal as required by law.

12. Pursuant to U.S.C. §1446(d), a true and correct copy of this Notice will be filed with the District Clerk for the 131st Judicial District for Bexar County, Texas, promptly after Spectrum files this Notice.

JURY DEMAND


13. A jury demand was included in the Original Petition filed by Plaintiff in the state court action.

WHEREFORE, CHARTER COMMUNICATIONS, INC. D/B/A SPECTRUM requests that this action be removed from the 131st Judicial District for Bexar County, Texas to the United States District Court for the Western District of Texas, San Antonio Division, and that this Court enter such further orders as may be necessary and appropriate.

Dated: January 15, 2021

Respectfully submitted,

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing Notice of Removal was filed electronically with the United States District Court for the Western District of Texas, San Antonio, Division, with notice of case activity to be generated and sent electronically by the Clerk of the Court with ECF notice being sent and a copy mailed *via certified mail* on January 15, 2021, addressed to those who do not receive notice from the Clerk of the Court.

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